

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

30413

FILE: B-218110.2 **DATE:** February 11, 1985

MATTER OF: Jervis B. Webb Company; Eaton Kenway, Inc.--
Reconsideration

DIGEST:

Incumbent on contract which was subject of recommendation for corrective action in prior decision is not eligible to request reconsideration of decision where contractor was on notice of protest, was offered opportunity to comment, and did not participate in protest proceedings. Arguments raised in request for reconsideration should have been made in initial proceeding.

Sperry Corporation (Sperry) requests reconsideration of our decision in Jervis B. Webb Company; Eaton Kenway, Inc., B-211724, Jan. 14, 1985, 85-1 C.P.D.

¶ , in which we determined that the Defense Logistics Agency (DLA) improperly awarded a sole-source contract to Sperry Corporation for the design, development and implementation of automated materials handling systems at two DLA supply depots. As corrective action for the improper sole-source, we recommended that DLA issue a solicitation in connection with its consideration of the exercise of the option for the implementation of the systems.

Sperry contests the propriety of our decision on the basis that the underlying protest was allegedly untimely and that the sole-source award of the contract was proper. These were important issues, addressed by the parties, which could have been addressed by Sperry in our consideration of the initial protest. The record shows that Sperry was on notice of the protest and that Sperry's comments were specifically solicited. The record also shows that Sperry did not participate in or comment on the protest.

Our Bid Protest Procedures, 4 C.F.R. part 21 (1984), applicable to this protest and request for reconsideration, provide that reconsideration may be requested by the protester, any interested party who submitted comments during

031200

B-218110.2

consideration of the protest, and any agency involved in the protest. 4 C.F.R. § 21.9 (1984); Small Business Administration--Aunyx Manufacturing Corporation--Reconsideration, B-208002.3, Dec. 7, 1982, 82-2 C.P.D. ¶ 510; cf. R.A. Schemel & Assoc., Inc.,--Reconsideration, B-209707.2, Sept. 2, 1983, 83-2 C.P.D. ¶ 291, where the requesting party was not on notice of the protest. Since Sperry was on notice of the protest but did not comment thereon, Sperry is not eligible to request reconsideration.

The request is dismissed.

Ronald Berger

for the Comptroller General
of the United States